HOUSE BILL No. 1393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-3-3.

Synopsis: Tort claims against governmental entities. Provides that a governmental entity or an employee of a governmental entity acting within the scope of the employee's employment is not liable if a loss results from: (1) a decision made by the fiscal body of the governmental entity not to allocate or appropriate funds to be used to adopt or enforce a law, rule, or regulation; (2) the negligent, wanton, reckless, or intentional act of a person under duty of care of the governmental entity that is directed toward the person or property of the person or another person; or (3) a decision made by the governmental entity, with duty of care, not to purchase video monitoring equipment or other communication monitoring equipment.

Effective: July 1, 1999.

Sturtz

January 12, 1999, read first time and referred to Committee on Judiciary.

1999

IN 1393—LS 7476/DI 69+

First Regular Session 111th General Assembly (1999)

HOUSE BILL No. 1393

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1   SECTION 1. IC 34-13-3-3 IS AMENDED TO READ AS
2   FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A governmental
3   entity or an employee acting within the scope of the employee's
4   employment is not liable if a loss results from:
5   (1) the natural condition of unimproved property;
6   (2) the condition of a reservoir, dam, canal, conduit, drain, or
7   similar structure when used by a person for a purpose that is not
8   foreseeable;
9   (3) the temporary condition of a public thoroughfare that results
10   from weather;
11   (4) the condition of an unpaved road, trail, or footpath, the
12   purpose of which is to provide access to a recreation or scenic
13   area;
14   (5) the initiation of a judicial or an administrative proceeding;
15   (6) the performance of a discretionary function; however, the
16   provision of medical or optical care, as provided in IC 34-6-2-38,
17   shall be considered as a ministerial act;

1   (7) the adoption and enforcement of or failure to adopt or enforce
2   a law (including rules and regulations), unless the act of
3   enforcement constitutes false arrest or false imprisonment;
4   **(8) a decision made by the fiscal body of the governmental**
5   **entity not to allocate or appropriate funds to be used to adopt**
6   **or enforce a law, rule, or regulation;**
7   (8) **(9)** an act or omission performed in good faith and without
8   malice under the apparent authority of a statute which is invalid,
9   if the employee would not have been liable had the statute been
10   valid;
11   (9) **(10)** the act or omission of anyone other than the
12   governmental entity or the governmental entity's employee;
13   (10) **(11)** the issuance, denial, suspension, or revocation of, or
14   failure or refusal to issue, deny, suspend, or revoke, any permit,
15   license, certificate, approval, order, or similar authorization,
16   where the authority is discretionary under the law;
17   (11) **(12)** failure to make an inspection, or making an inadequate
18   or negligent inspection, of any property, other than the property
19   of a governmental entity, to determine whether the property
20   complied with or violates any law or contains a hazard to health
21   or safety;
22   (12) **(13)** entry upon any property where the entry is expressly or
23   impliedly authorized by law;
24   (13) **(14)** misrepresentation if unintentional;
25   (14) **(15)** theft by another person of money in the employee's
26   official custody, unless the loss was sustained because of the
27   employee's own negligent or wrongful act or omission;
28   (15) **(16)** injury to the property of a person under the jurisdiction
29   and control of the department of correction if the person has not
30   exhausted the administrative remedies and procedures provided
31   by section 7 of this chapter;
32   (16) **(17)** injury to the person or property of a person under
33   supervision of a governmental entity and who is:
34   (A) on probation; or
35   (B) assigned to an alcohol and drug services program under
36   IC 12-23, a minimum security release program under
37   IC 11-10-8, or a community corrections program under
38   IC 11-12;
39   **(18) the negligent, wanton, reckless, or intentional act:**
40   **(A) of a person under duty of care of the governmental**
41   **entity; and**
42   **(B) that is directed toward the person or property of the**

1   **person or another person;**
2   (17) **(19)** design of a highway (as defined in IC 9-13-2-73), if the
3   claimed loss occurs at least twenty (20) years after the public
4   highway was designed or substantially redesigned; except that
5   this subdivision shall not be construed to relieve a responsible
6   governmental entity from the continuing duty to provide and
7   maintain public highways in a reasonably safe condition;
8   (18) **(20)** development, adoption, implementation, operation,
9   maintenance, or use of an enhanced emergency communication
10   system; or
11   (19) **(21)** injury to a student or a student's property by an
12   employee of a school corporation if the employee is acting
13   reasonably under a discipline policy adopted under
14   IC 20-8.1-5.1-7(b); **or**
15   **(22) a decision made by the governmental entity, with duty of**
16   **care, not to purchase:**
17   **(A) video monitoring equipment; or**
18   **(B) other communication monitoring equipment.**